

**PLANNING AND ZONING COMMISSION  
STAFF REPORT**

**September 15, 2016**



**Planning Variance case no. PV16-18: NN Out Properties**

**CASE DESCRIPTION:** a request for approval of a 9-inch variance to the minimum 25-foot front building setback generally required on property zoned Residential District – 5000 (RD-5), to legitimize the construction of a single-family home within 24'3" from the front property line on property at 1011 East 28<sup>th</sup> Street

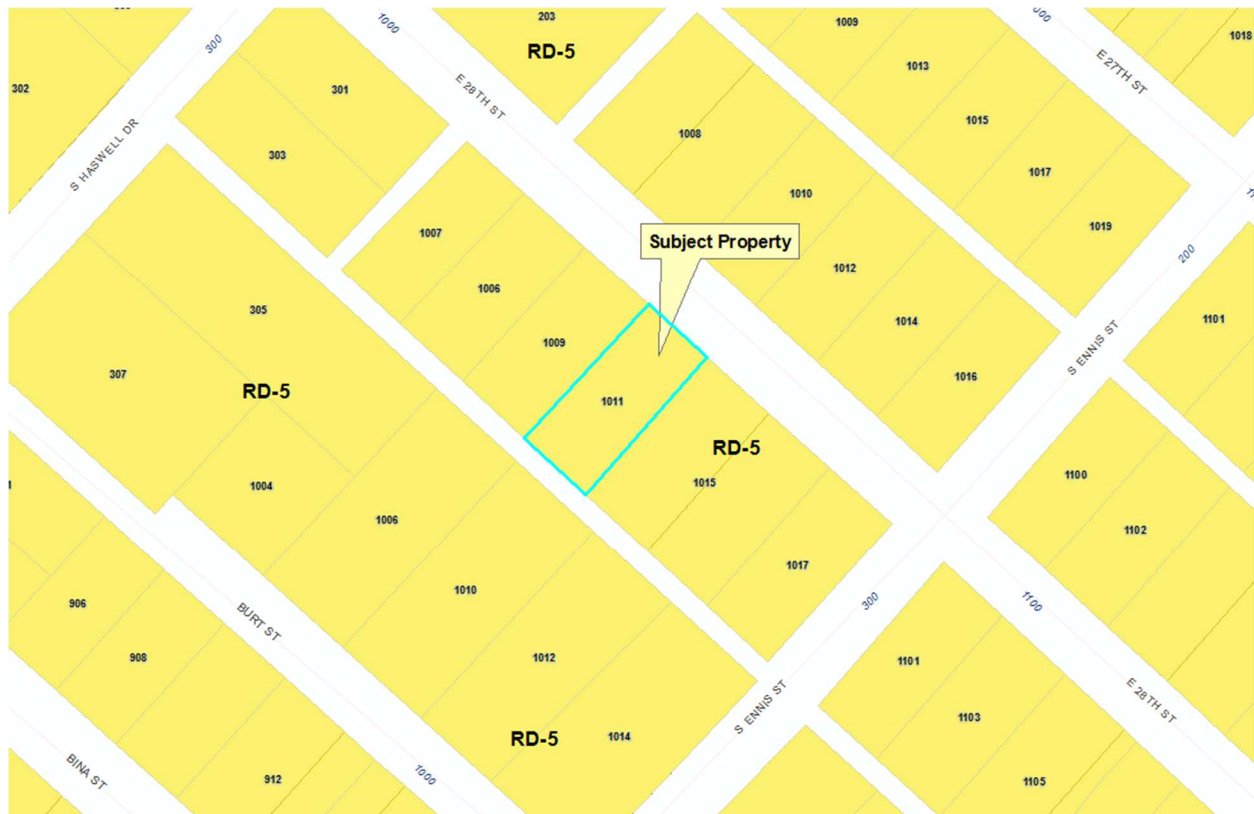
**LOCATION:** approximately 150 feet west of the intersection of South Ennis and East 28<sup>th</sup> Streets, being Lot 4 in Block 6 of the Buchanan Subdivision

**EXISTING LAND USE:** single-family home (under construction)

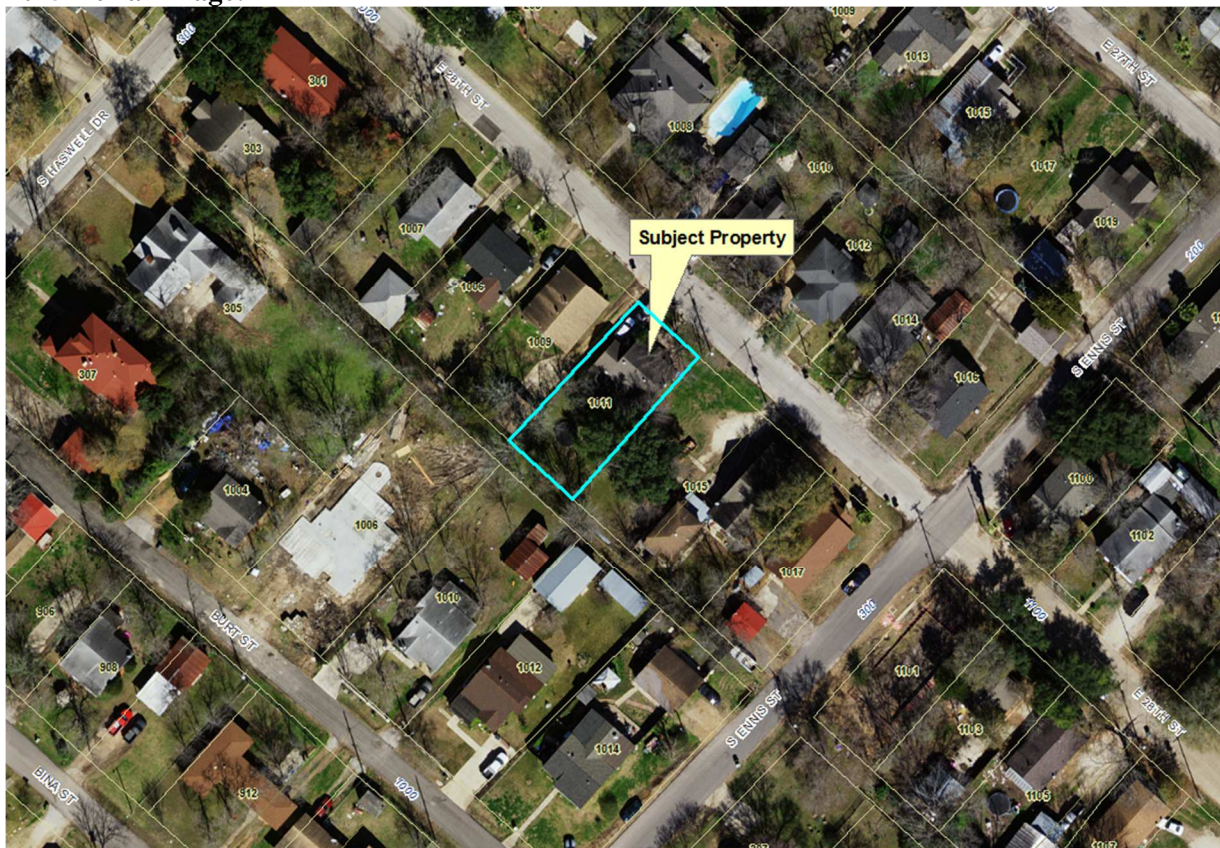
**PROPERTY OWNER:** NN Out Properties

**STAFF CONTACT:** Lindsay Hackett, Staff Planner

**SUMMARY RECOMMENDATION:** Staff recommends **approving** the requested variance.



**2015 Aerial Image:**



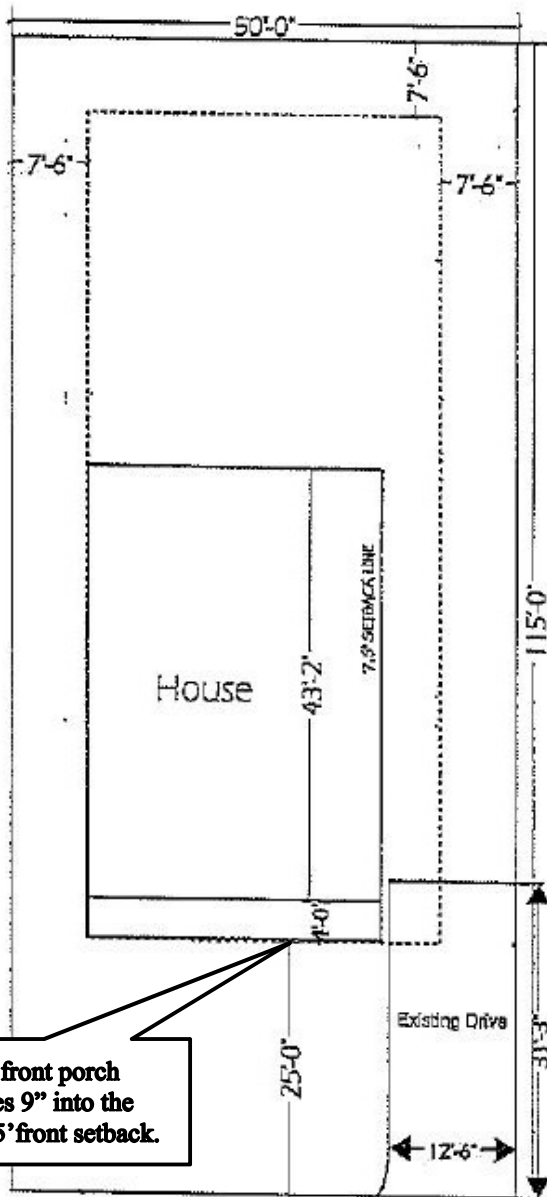
**IMAGES TAKEN BY STAFF:**







# SITE PLAN:



SHEET:  
ROOF-SITE PLAN

PAGE:  
3

DATE:  
SEE NOTES

ADDRESS:

1011 E 28th

OWNER:

NN Out Properties

NOTES:

House to be  
constructed to 2006  
IRC codes

SQUARE FOOTAGE:

Front Porch: 116

Total Heated: 1247

DOOR/WINDOW LEGEND

DOOR TAG

DOOR WITH 24"

DOOR WITH 10 1/2"

WINDOW TAG

WINDOW WITH

WINDOW WITH

WINDOW WITH

## **BACKGROUND:**

The subject property is zoned Residential District-5000 (RD-5) and located west of the intersection of East 28<sup>th</sup> Street and S. Ennis Streets. The applicants, NN Out Properties, are requesting a variance that would allow for a 9-inch encroachment into the minimum required 25-foot front building setback on the subject property, to allow for a recently-installed foundation which is planned to have vertical structural supports for a porch cover to remain on the property. The foundation for the new home that is currently under construction here was inadvertently poured 9 inches too close to the front property line, resulting in an encroachment into the minimum 25-foot front building setback required on most single-family residential home sites in Bryan. The portion of the property that is now located in the minimum front setback area is the porch for the new home.

Of the residential properties on this block face between S. Ennis and S. Haswell Streets, over 75% appear to not comply with the City's currently adopted minimum front building setback standard. The home on the adjacent property to the north at 1009 E 28th Street, appears to be set back only 12 feet from East 28<sup>th</sup> Street. The property line for the subject property is located 10 feet from the pavement of East 28<sup>th</sup> Street. The edge of the recently installed foundation is only 24' 3" from the property line along East 28th Street.

## **ANALYSIS:**

The Planning and Zoning Commission may authorize a variance from minimum building setback standards stipulated in the Land and Site Development Ordinance. No variance shall be granted unless the Planning and Zoning Commission finds that all of the following criteria are met:

1. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area (an area encompassing approximately a 200-foot radius);

**Building setbacks are established to allow access to light and air, maintain desirable open space around the periphery of a single-family home site and to prevent the overcrowding of neighborhoods with buildings. The new home construction conforms to minimum rear and side building setback requirements. The new home development on the subject property is a desirable infill development.**

**Staff contends that if the variance were granted, the space between the front of the new home and the front property line would still be approximately 24' 3". While not ideal, staff contends that a 9-inch encroachment into the 25-foot minimum front building setback is negligible in this particular case. Other structures on this same block face extend much closer than 9 inches to the front property line adjacent to the southeast side of this segment of E. 28<sup>th</sup> Street. Staff therefore believes granting this variance request will not be detrimental to the public health, safety or welfare of the general vicinity.**

2. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property;

**Given the same reasons stated above, staff contends that if granted, a 9-inch encroachment into the 25-foot front setback would not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements to properties abutting the subject property. In fact, the effect of granting this variance should be barely (if at all) noticeable to the general public.**

3. That the hardships and difficulties imposed upon the owner/applicant are greater than the benefits to be derived by the general public through compliance with the requirements of this chapter.

**Given that the applicant has already poured the foundation of the property and built a significant amount of the home and porch, enforcing the standard front building setback requirements in this particular case would impose greater hardships upon the applicant/owner than benefits to be derived by the general public through compliance with the front building setback requirement. If required to comply with the set back the property owner/developer will have to remove 9 inches from the porch, causing it to be only 3 feet wide, which would likely make use of it more difficult.**

#### **RECOMMENDATION:**

Based on all of these considerations, staff recommends **approving** the requested variance.

**EXCERPT FROM APPLICATION:**

## **Setback Variance Request**

**The following page should be completed ONLY for setback variance requests.**

Please describe the type of variance being requested:

We are seeking to encroach 9 inch into the front setback. Current codes require a 25 ft setback. The request for the variance is due to a discrepancy in the plans. The slab for the new structure has been poured, the front porch that spans the entire length of the house was poured at approximately 3 feet. The intended depth of the porch was 4 ft. Adding the depth to the rear of the slab is not a feasible option due to the rough in and location of the plumbing. The 9" encroachment would include a 3 sided open porch and 4 columns.

State how the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties in the area:

The structure is located in an older neighborhood of Bryan. Based on the setbacks of other houses along the street a 25' setback was not a requirement at the time most of the houses on the street were constructed, therefore encroaching 9' into the existing setback will not go be a detriment to the existing houses on the street.

State how the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties directly abutting the subject property:

The house to the right is setback back 15' and the house to the left is setback approximately 11', therefore the house we are proposing will be set back substantially further than other houses in the neighborhood and on the immediate street.

State how the hardships and difficulties imposed upon the owner are greater than the benefits to be derived by the general public through compliance with the requirements of the ordinance:

If not granted the variance on the setback, the porch will remain only 3'. With the columns, the porch is not able to adequately perform as a porch and covered walking path to the parking, nor is it aesthetically pleasing. We believe that the variance will positively impact the neighborhood, appearing more aesthetically pleasing and still being setback substantially more than other houses on the street.